RECEIVED
SEP 2 1980
OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1980

ORIGINAL COPY

NO. 79-6423

ABBY GAIL LASSITER,
Petitioner

v.

DEPARTMENT OF SOCIAL SERVICES OF
DURHAM COUNTY, NORTH CAROLINA,

Respondent.

(IN THE MATTER OF WILLIAM L. LASSITER)

APPENDICES TO REPLY TO RESPONDENT'S BRIEF IN OPPOSITION

APPENDIX I

STATEMENT OF THE CASE USING DOCUMENTS IN THE

STIPULATED RECORD ON APPEAL

On the 26th of September, 1974, William L. Lassiter, the child who is the subject of this proceeding, was born. [Juvenile Petition, p. 1]. The natural parents are Petitioner, Abigail Lassiter, and William Boykin, the putative father. [Order, p. 2]. Ms. Lucy Lassiter is petitioner's mother and the child's grandmother. [Affidavit, p. 1].

In May, 1975, the minor child was placed in the legal custody of the Durham County Department of Social Services after the Court "... adjudicated him to be a neglected child in need of protection of the State." [Juvenile Petition, p. 1]. The child has been in Durham County Department of Social Services' legal custody since that adjudication. [Order, p. 2].

In July, 1976, petitioner was convicted and sentenced to 25-40 years in prison for second degree murder. [Order, p. 1]. Petitioner is serving that sentence at the Womens Prison in Raleigh, North Carolina. [Juvenile Petition, p. 1].

On April 10, 1978, Durham County Department of Social Services, through Bonnie Cramer, filed a Juvenile Petition to terminate petitioner's parental rights. [Juvenile Petition]. Under oath, Ms. Cramer alleged that she was the social worker from the Durham County Department of Social Services, that as such she was the

designated representative for the purpose of bringing the Petition, and that the allegations in the Petition were true of her own knowledge, except as to those things stated upon information and belief, and as to those things she believes them to be true. [Juvenile Petition, p. 3]. From her own knowledge she alleged:

> "That the minor child was placed in the legal custody of the Department of Social Services on May 23, 1975, after the Court adjudicated him to be a neglected child in need of protection of the State.
>
> That the minor child was placed in foster care at that time and continues in foster care.
>
> That the mother, Abbygail Lassiter, is serving a sentence for second degree murder at Womens Prison in Raleigh, having been tried and sentenced in July, 1976.
>
> That the mother has not had any contact with the child since December of 1975.
>
> That the mother has without cause, failed to establish or maintain concern or responsibility as to the child's welfare.
>
> That the mother has willfully left the child in foster care for more than two consecutive years without showing that substantial progress has been made in correcting the conditions which led to the removal of the child, or without showing a positive response to the diligent efforts of the Department of Social Services to strengthen her relationship to the child, or to make and follow through with constructive planning for the future of the child." [Juvenile Petition, pp. 1-2].

Upon information and belief, Ms. Cramer alleged that William Boykin is the putative father, that without cause, he has failed to establish or maintain a concern or responsibility as to the child's welfare, and that he had not established paternity or legitimated the child prior to the filing of the Petition. [Juvenile Petition, p. 2].

On April 12, 1978, petitioner was served with the Juvenile Petition to terminate her parental rights at the Womens Prison in Raleigh. [Stipulation]. On April 28, 1978, Thomas F. Loflin, III, Esquire, filed a Post-Conviction Petition with the Superior Court

of Durham County, contesting the constitutionality of petitioner's imprisonment. Mr. Loflin had been retained by petitioner's mother. [Affidavit, p. 1]. The gravamen of that petition was:

> "...to the effect that Abigail Lassiter was deprived of her rights under the Constitution of the State and Federal Government to effective assistance of counsel and due process of law in that until the day of trial the State withheld from Abigail Lassiter's trial attorney information to the effect that another person had admitted on the day of the homicide to an investigating police officer that that person had stabbed to death the deceased, and that Abigail Lassiter's counsel did not use this information, or move for a mistrial, after this information was learned during the course of Abigail Lassiter's trial." [Id.].

After being retained by Abigail Lassiter's mother, Mr. Loflin visited the petitioner in prison to discuss the aspects of the case prior to filing the court pleadings and had correspondence back and forth with her concerning her case before and after the juvenile court pleadings were filed. [Id.]. Petitioner never mentioned to Mr. Loflin the legal matter involving custody of her son; Mr. Loflin stated that had she mentioned this matter, he would not have been interested in representing her, nor would she have had any funds to pay him for such representation; she was clearly indigent. [Affidavit, p. 2].

On May 12, 1978, petitioner failed to Answer the Juvenile Petition. [Exception to Record on Appeal, Narrative of Facts, p.1].

On May 25, 1978, petitioner was served with a Notice of Hearing to terminate her parental rights, scheduled for June 13, 1978. [Id.].

On June 13, 1978, petitioner's mother, Lucy Lassiter, appeared at the Durham County Courthouse for the scheduled termination of parental rights proceeding. [Id.]. She was informed that the hearing had been cancelled because of a conflict with a Judge's conference. [Id.].

On August 11, 1978, petitioner was served with the second Notice of Hearing to terminate her parental rights, scheduled for August 11, 1978. [Id.]. Petitioner informed the prison guards about the legal proceeding, but they took no steps to assist her in obtaining legal representation. [Id.].

On August 31, 1978, the termination proceeding was held before the Honorable S. F. Gantt, Judge Presiding over the Juvenile Division of the District Court of Durham County. [Order, p. 1]. Bonnie Cramer, social worker from Durham County Department of Social Services, was present; Thomas Russell Odom, staff attorney for Durham County Department of Social Services was present; Petitioner was present but not represented; William Boykin was not present or represented. [Id.].

> "Prior to taking any evidence on the merits the Court questioned [petitioner] with the following results: the Court noted that [petitioner] was served with a copy of the Petition to terminate parental rights and summons on April 12, 1978, and failed to file a Response within the 30 day statutory period. Thereafter the case was scheduled for a hearing on the 13th day of June, 1978, Notice of which was served on [petitioner] on May 25, 1978, by Registered Mail at Womens Prison. The hearing was not held on June 13, 1978, because of the conflict with the Judges' Conference. [Petitioner's] mother appeared for the hearing, however, and was informed that it would be rescheduled. It was rescheduled for August 31, 1978, and the [petitioner] was served on August 11, 1978, with a Notice of Hearing by Registered Mail signed for by D. Sales of the North Carolina Correctional Center for Women of the pending legal action, officials at that institution took no action to help [petitioner] receive the assistance of legal counsel.
>
> The Court concluded that, notwithstanding this fact, Respondent herself had four months to consult an attorney and in fact had spoken with Thomas F. Loflin, III, Esquire, about her criminal conviction (See affidavit of Thomas F. Loflin III, Supra.). Since [petitioner] had not consulted any attorney specifically with respect to the child, but had ample opportunity to, [petitioner] was not entitled to a delay of the proceedings in order to retain counsel, nor did the Court appoint counsel to assist [petitioner] in opposing the termination of her parental rights as to William L. Lassiter. [Exception to Record on Appeal, Narrative of Testimony].

On September 7, 1978, Judge Gantt entered an order terminating parental rights of Petitioner and William Boykin concluding that as a matter of law the natural parents had willfully failed to maintain concern or responsibility for the welfare of the minor child and that it was in the best interest of the minor that all parental rights be terminated. [Order, pp. 1 and 3]. The order states that Judge Gantt based this decision on (1) the testimony presented, and (2) the record before the court. [Id.].

On September 18, 1978, petitioner gave written notice of appeal. [Appeal Entries]. Petitioner's only assignment of error was:

> "The Court's failure to appoint counsel to represent (petitioner) in a proceeding under North Carolina General Statutes §7A-289.22 et seq., for termination of parental rights, on the grounds that North Carolina law and the Fourteenth Amendment of the United States Constitution guarantee a natural parent who is indigent the right to have counsel appointed to represent him/her in a proceeding under North Carolina General Statutes §7A-289.22 et seq. for termination of parental rights." (Assignment of Error).

APPENDIX B OF PETITIONER'S BRIEF IN GIDEON V. WAINWRIGHT

APPENDIX B

In the Present Case, Petitioner Did Not Receive the Benefits and Protection Which Would Have Been Afforded Him By Counsel

The present case discloses the following specific consequences of the denial of counsel:

1. The offense of breaking and entering with intent to commit a misdemeanor raises a number of subtle and complex questions which were not explored at the trial. See *McNair* v. *State*, 61 Fla. 35, 55 So. 401 (1911). The trial judge did not explain the elements of the offense to the jury; he merely paraphrased the charge set out in the information (R. 43; see R. 1).

An individual may be so intoxicated as to negative the intent requisite for a conviction of this offense. *Jenkins* v. *State*, 58 Fla. 62, 66, 50 So. 582, 583 (1909). The principal witness for the state, who stated that he saw Gideon leave the Bay Harbor Poolroom at 5:30 a.m., testified that Gideon "acted kinder drunk" (R. 21). However, the jury was not instructed with respect to the implications of intoxication as a defense.

The accused was not informed of his right to make requests concerning the charge and to be advised of the court's rulings with respect to the requests before final argument.

2. In connection with the *voir dire*, the trial judge advised Gideon that all or any one of the jurors could be excused "if you don't like their looks" (R. 11), but he did not advise Gideon of his right to examine the prospective jurors individually or of his right to object to a juror for cause. See *Carnley* v. *Cochran*, 369 U.S. 506 (1962) (Douglas, J., concurring).

3. The judge improperly cut off cross-examination in several instances. Thus, he did not permit Gideon to inquire into the proprietor's pattern of conduct in locking the building (R. 15), an inquiry which the Florida Supreme Court has held to be proper in a prosecution for this offense. *Adkinson* v. *State*, 48 Fla. 1, 37 So. 522 (1904).

4. No objection was interposed in behalf of the defendant to opinion and hearsay testimony. See e.g., R. 14, A-6; R. 23, A-2.

5. The record shows that after the verdict was returned "Imposition of sentence was withheld pending receipt of an investigative report of defendant's past history." (R. 4.) Three weeks later, the defendant, "having nothing to say," was sentenced to the maximum prison term authorized by the governing statute, a term of five years (R. 5). No plea was apparently made against imposition of the maximum penalty.

APPENDIX III

STATEMENT OF THE CASE IN RESPONDENT'S BRIEF IN GIDEON V. WAINWRIGHT

STATEMENT OF THE CASE

On October 11, 1961, Clarence Earl Gideon, an inmate of the Florida State Prison at Raiford, filed a petition for writ of habeas corpus in the Supreme Court of Florida, alleging substantially as follows:

1. He was arrested on June 3, 1961, and charged with the crime of breaking and entering with intent to commit a misdemeanor, to wit, petit larceny.

2. He plead not guilty and was tried and convicted in the Circuit Court of Bay County, Florida, on August 4, 1961.

3. He was sentenced on August 25, 1961, to a term of five years in the State Prison.

4. At the time of trial he was without funds and without an attorney. He asked the trial court to appoint him an attorney but his request was denied. He told the court that the United States Supreme Court had ruled that the State of Florida should see that everyone who is tried for a felony should have legal counsel, but the court ignored this plea thereby allegedly denying him his rights under the 4th, 5th and 14th Amendments.

5. He sent a petition from the county jail of Bay County to the United States District Court at Tallahassee, Florida, but the Sheriff's office and officials refused to let it go out, contrary to the laws of the United States (R. 45-46).

The Petitioner did not recite any circumstances to show that the trial was unfair or that the charges against him were com-

plex. Nor did Petitioner allege that he was incapable of adequately making his own defense, by reason of any lack of mental capacity, education, experience, etc. On October 30, 1961, the Supreme Court of Florida denied the petition for habeas corpus without requiring a return, without a hearing, and without opinion (R. 47).

Thereafter, on January 8, 1962, Petitioner filed in this Court a petition for writ of certiorari and a motion for leave to proceed *in forma pauperis*. Respondent filed an informal *Response* to the petition.[1] On June 4, 1962, this Court entered an order granting the motion and the petition for certiorari. In addition to other questions presented by this case, counsel were requested to discuss the following in their briefs and oral argument: "Should this Court's holding in *Betts v. Brady*, 316 U.S. 455, be reconsidered?" (R. 47-48).

Petitioner's Designation For Printing, directed that the formal record and the reporter's transcript of trial proceedings in the Circuit Court of Bay County, Florida, be printed and included in the record in this cause.[2] Respondent moved to strike those paragraphs of Petitioner's designations pertaining to the trial proceedings in Bay County,[3] since the trial record and transcript were not before the Florida Supreme Court[4] and are not, there-

---

1. *Response To Petition For Writ Of Certiorari*, filed April 9, 1962.
2. *Petitioner's Designation For Printing*, paragraphs 1 and 2, p. 1.
3. *Respondent's Motion To Strike Paragraphs 1 and 2 Of Petitioner's Designation For Printing*, filed August 31, 1962.
4. Attached to *Respondent's Motion To Strike* is a certificate of the Honorable Coyte P. McCord, Clerk of the Supreme Court of Florida, to the effect that "no pleadings, transcripts, documents or papers," were before that Court, other than the

fore, incorporated in the judgment being reviewed in the present certiorari proceeding.[3] On October 15, 1962, an order was entered denying the motion of Respondent. The trial record and transcript of proceedings have been included in the printed record before this Court (R. 1-44).

---

petition for habeas corpus filed by Petitioner on October 11, 1961, and the order of the Florida Supreme Court denying said petition, filed on October 30, 1961. He also certified that "the trial record and transcript in the case of State v. Gideon in the Circuit Court of Bay County, Florida, August, 1961, have never been and are not now a part of the record which was considered by the Florida Supreme Court in denying Gideon's petition for writ of habeas corpus in October, 1961."

5. We quote, as follows, from *Respondent's Motion To Strike*, *supra* note 3 at p. 3:

"The Florida Court did not have before it the transcript of trial proceedings and formal record in the Circuit Court of Bay County, Florida, which petitioner seeks to include in the printed record in the instant cause, and that Court denied Gideon's petition for habeas corpus on the basis that the bare allegations contained therein were insufficient as a matter of law. The trial papers are not needed by petitioner to prove the allegations of the petition, since respondent has admitted that those allegations must be taken as true. Matters which took place at the trial which were not alleged in the petition for habeas corpus are not involved in the instant case, and therefore have no place in the printed record. For these reasons, inclusion of the trial papers in the printed record herein would be unnecessary and improper."

79-6423

STATE OF NORTH CAROLINA — IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
DURHAM COUNTY — FILE NO. 75 J 56

IN THE MATTER OF)
WILLIAM L. LASSITER) TRANSCRIPT OF THE EVIDENCE

Before the Honorable S. F. Gantt, Judge Presiding

Respondents:
Abby Gail Lassiter and
William Boykins

Not represented by counsel

Thomas Russell Odom, Esquire
representing Petitioner

Date of Hearing: August 31, 1978

I_N_D_E_X

Petitioner's Evidence	Direct	Cross
Bonnie Cramer	9	19
Respondent's Evidence		
Abby Gail Lassiter	25	36
Lucille Lassiter	43	52

REPORTER'S NOTE:

In this record, Ms. Lassiter is Abby Gail Lassiter; Mrs. Lassiter is Lucille Lassiter.

THE COURT: Let the record show that she was served with copies of the petition according to the records of the Department on the 12th day of April. That she has consulted ar attorney in another matter since that time, but has done nothing toward preparing for this hearing which has been set, how many times, twice? It was set twice?

MR. ODOM: Yes, sir.

THE COURT: And how much notice did she have this time?

MR. ODOM: It was served on her--it was received on August 11 in the--more than 10 days notice. She was served on August 11 by registered mail signed for by D. Sales in the Womens Prison in Raleigh.

THE COURT: All right.

MR. ODOM: So it's actually 20 days notice. She got it on August 11.

THE COURT: And she has had over four months to speak to an attorney and has spoken to an attorney but has not consulted anyone with reference to this child. Isn't that true?

MS. LASSITER: Say what now?

THE COURT: I said you were served with notice of--I mean, you were served with a summons in reference to

the termination of your parental rights of William L. Lassiter on April 12.

MS. LASSITER: Yes, I got the papers.

THE COURT: And you have done nothing towards--

MS. LASSITER: Yes, I did.

THE COURT: What did you do?

MS. LASSITER: I reported to the Department of Corrections Center. I told someone about that. Didn't nobody get in touch with no one and I told them that I had a paper when I got the first paper. I contacted someone and told them I had to go to Court about this paper and didn't nobody contact no one and I told one of the matrons there.

MR. ODOM: Have you talked with Mr. Loflin since you got this paper?

MS. LASSITER: Have I talked with him?

MR. ODOM: Yes, about your parole.

MS. LASSITER: Oh, no, I haven't talked with him since I got this one. No, I haven't talked with him.

THE COURT: You haven't talked with your attorney since when?

MS. LASSITER: I haven't--he said have I talked with him since I got these papers.

THE COURT: When was the last time you talked with him?

MS. LASSITER: It was--How long has it been since I been gone?

MRS. LASSITER: We haven't talked to him period about this child.

THE COURT: I know that. I understand that.

MRS. LASSITER: Oh, well, that was a month or so before he wrote us a letter, told us that--

MS. LASSITER: Oh, yes, that's right.

MRS. LASSITER: --90 more days, 30 to 90 more days that he was going to try to have us a trial, our trial was coming through in court, you know.

MR. ODOM: When was that?

MRS. LASSITER: That was in--let me see, this is August, it could have been June. This was in June.

MS. LASSITER: Was it in June?

MRS. LASSITER: I think it was June.

MS. LASSITER: Was it in April or was it May or what?

MRS. LASSITER: It was in June, I believe. That in 30 to 90 days that he would have us a--that's what we waiting on now so that he could see about getting us our

trial.

MS. LASSITER: It was in May.

THE COURT: To see about getting a new trial.

MRS. LASSITER: Yes.

THE COURT: That was in June?

MS. LASSITER: That was in May.

THE COURT: That was after you were served with these papers?

MRS. LASSITER: Because the time they were going to have one court up here and I came up here and they said all the judges--

MS. LASSITER: April.

MRS. LASSITER: --the judges were not in. And we were suppose to be up here that morning and I checked it and I came and then I got here they said all the judges--and I called up Bonnie Franklin and she told me that all the judges were out on some kind of business meeting or something.

THE COURT: That was in June?

MR. ODOM: You all had a meeting in Asheville, Your Honor, I bel ɜve.

THE COURT: It might have been in Winston-Salem.

MR. ODOM: Well, the Judges' conference was

inadvertently set at that time. Well, if you want to proceed with this, we can or if you want to give her a chance to talk with him about this I don't object. I would like to say this. They have been working with Mr. Loflin and the mother obviously knows something about this. She was here the first time and it seems like some contact could have been made. I don't want to impose on any rights that she may have or might want to have, but they have been working with a lawyer and apparently have had some contact with him since they got this and I can see that she is probably much more concerned in many ways about getting out of prison and that's reasonable, nobody wants to be locked up. But considering the concern that is evidenced this morning, something could have been taken. They know Mr. Loflin and they've had some contact with him.

THE COURT: When was she--When you were arrested, were you given bond or did you stay in jail the whole time?

MS. LASSITER: Me and her both were arrested.

MRS. LASSITER: Yeah, we were out on bond.

THE COURT: And when was that?

MRS. LASSITER: That was June the--'78, no, '76.

MR. ODOM: If Your Honor please, I think they were arrested in February and were tried in June or July.

So, it was some four month period--

THE COURT: Of what year?

MR. ODOM: Of '76.

THE COURT: Well, all of this neglect business and findings of fact by me were made in June of '75.

MRS. LASSITER: Sir, when we were arrested in June was when we went back to trial. This black lady was working on the case, she told--asked her she was ready to bring her child home. And she told my daughter, she said, "You wait until ya'll go to trial and come back after trial and see how the trial come out," and said that if anything happened--

MS. LASSITER: She'd bring the child home.

MRS. LASSITER: She wanted to see if anything was going to happen to both of us and she would see what to do then. And when we went to trial and came back, I don't know, I came back and this black girl got missing, I don't know where she went and I've been running around trying to find out who was--who my case worker was and this lady here came up here and said that--

MR. ODOM: If Your Honor please,--

MRS. LASSITER: --she was the--

MR. ODOM: --we're getting into testimony--

MRS. LASSITER: --she knew what she was going to

do before even talking to me.

MR. ODOM: Our record does not reflect that any of this took place in this fashion. And for the record, I think the majority of what we are concerned about and the reason that we're asking for termination now even though it is a matter of a long period of time, but a lot of this, the ground work for this began before Ms. Lassiter was arrested or sent to prison or anything and a lot of our concerns began to arise then and this pattern of neglect, we would like to show, by the evidence, began before she was removed and put into prison. Of course, she was arrested, tried and convicted and put in prison. That's what our evidence shows and that's what our record reflects and that's the evidence we would like to put on. Do you want to proceed?

THE COURT: I think we can, yes, she has had ample opportunity to seek counseling.

MR. ODOM: We'll call Miss Cramer.

BONNIE CRAMER, being first duly sworn, testified as follows on DIRECT EXAMINATION by MR. ODOM:

Q Your name is Bonnie Cramer?

A Yes.

Q And you are a social worker with the Department of Social Services, isn't that right?

A Yes.

Q And you are the case worker assigned to William L. Lassiter?

A Yes.

Q How long have you been working with the Lassiter child?

A Since August of 1977.

Q Are you familiar with the mother of this minor child?

A I've met her, yes.

Q When did the minor child come into--To clarify this, do you know Abby Gail Lassiter?

A I visited her at Womens Prison on one occasion either in December of '77 or January of '78.

Q And you, of course, know her mother?

A Yes.

Q When did the minor child come into the custody of the Department of Social Services?

A May of 1975.

Q And what was the reason for him coming into custody at that time?

A We received a complaint from Duke Pediatrics that William had not been followed in the pediatric clinic for medical problems and that they were having difficulty in

locating Ms. Lassiter to have William seen in pediatric clinic and asked that a social worker investigate the situation on him.

Q Did the social worker investigate that situation?

A Yes.

Q Does the record document what the social worker did and what the social worker found?

A The record states that there were many attempts to locate Ms. Lassiter to tell her about the appointments and get her to Duke Hospital for William and she could not be found. And in May of '75, a social worker did take William to Duke Hospital and the doctors asked that he stay there because of breathing difficulties, malnutrition and there was a great deal of scarring that indicated that he had a severe infection that had gone untreated.

Q How did the social worker come to take the child to Duke Hospital at that time?

A The social worker went to the home of Ms. Lassiter to get her to take William to the doctor and she was not there. William was there and the social worker took him to the hospital.

Q And that was in May of '75.

A Yes.

Q And the child would not have been a year old until that September, is that right?

A That's correct.

Q He was nine months old, no eight.

A Yes, he was born in September of '74.

Q Ms. Cramer, does the record reflect or do you have any knowledge of how many times Ms. Lassiter has seen the child since he was removed from her home in May of 1975?

A Yes.

Q Would you tell us what that is please, how many times?

A The record reflects that Ms. Lassiter saw William in December of '75 along with Mr. William Boykin on a prearranged visit and that there has been no other contact except Ms. Lassiter mentioned to me that during her trial in July of '76, she, by chance, saw William and his foster mother on the street downtown.

Q Does the record reflect any contact by her with the Department regarding her concern for the child or the care of the child and how the child was growing and progressing?

A Abby Gail Lassiter?

Q Yes.

A No.

Q Do you have any knowledge of her mother?

A Yes.

Q And has her mother made any contact with the Department of Social Services regarding that child?

A There has been a great deal of contact with Mrs. Lassiter concerning the other children who are placed with Mrs. Lassiter. The record does not reflect that there has been any contact concerning William that was initiated by Mrs. Lassiter.

Q Does it reflect any contact initiated by the Department on behalf of the child with her?

A Yes.

Q Do you feel that it would be in the best interest of this child to be placed in the physical custody of his grandmother?

A No.

Q What would be your basis for feeling that it would not be in his best interest?

A I think there are several things. William does not know his grandmother. Mrs. Lassister has a great deal--

MRS. LASSITER: You don't know me.

THE COURT: Don't speak up while she's talking.

A --to do to care for the other children and she does a very fine job of that with a great deal of support from

the Department of Social Services and supportive services. I have--I don't feel that the home is conducive for William. I have checked with people in the community and from Mrs. Lassiter's church who also feel that this additional responsibility would be more than she can handle. Mrs. Lassiter herself has indicated that to me on a number of occasions.

THE COURT: Mrs. Lassiter has what?

A Has indicated that to me--

MRS. LASSITER: No I have not.

A --on a number of occasions

MRS. LASSITER: No I haven't.

THE COURT: Now, listen, I feel that what you're going to do is you're going to end up on the fourth floor of that building over there if you don't keep quiet. Will you please start over again, ma'am? Now, this is the elder Ms. Lassiter?

A Lucille Lassiter, yes.

THE COURT: And what did she say about the child?

A She has indicated to me on a number of occasions that she was not able to take responsibility for the child. She wanted to find another place to live and this has been

something that has been going on for months. She also spends a great deal of time and energy with the children who are at home; there are four children who are with her at this time. The references I consulted in the church and the community are also feeling like it would be too much additional responsibility. And, Your Honor, we are talking about a child who will be four years old this year, this month, who has not seen his grandmother since the chance meeting in July of '76 and that was the only time.

Q All right. Since Ms. Lassiter, Ms. Abby Gail Lassiter has been in Womens Prison in Raleigh, have you had any contact with her about this child?

A I did visit with her in December of '77 to talk with her about William and about our plans for termination of parental rights at that time.

Q Did she indicate any--What was her response to that at that time?

A She was very opposed to it and was hoping that the child could be placed with Ms. Lucille Lassiter, her mother.

Q Has she ever written to you asking about the child, how he was doing or anything like that?

A Abby Gail Lassiter?

Q Yes.

A No.

Q Do you know anything about William Boykin?

A I know that he lives on Burlington Avenue. I have had no contact with him concerning this child.

Q Have you ever tried to contact him?

A Yes, I have sent many letters to him and in December of '75, Mr. Boykin denied to the Department of Social Services that he was the father of the child.

Q Do you know if he and Ms. Lassiter were ever married?

THE COURT: You say he denied that he was the father?

A Yes.

Q Do you know if he has by affidavit or judicial proceeding asserted his paternity to this child?

A To my knowledge he has not.

Q Do you have any knowledge as to whether or not he has ever made any financial support or showed any concern of any sort toward this child?

A He has not.

Q Is this an adoptable child?

A Yes.

MR. ODOM: I have no further questions.

THE COURT: I notice we made extensive findings in June of '75 that you were served with papers and called the social services and told them you weren't coming; and the serious lack of medical treatment. And, as I have said in my findings of the 16th day of June, '75, the Court finds that the grandmother, Ms. Lucille Lassiter, mother of Abby Gail Lassiter, filed a complaint on the 8th day of May, 1975, alleging that the daughter often left the children, Candina, Felicia and William L. with her for days without providing money or food while she was gone. That the AFDC check for the children is mailed to the grandfather's house of Abby Gail Lassiter's boyfriend. Was the child in the grandfather's house of Abby Gail Lassiter's boyfriend?

A In May of 1975? I would have to consult the record. I don't know the address.

THE COURT: All right. I can't imagine it being mailed there unless the child was there.

A The address given is 511 Burlington Street, which is the address of William Boykin and his parents.

THE COURT: And his parents?

A Yes, sir.

THE COURT: This says the AFDC check for the

children--

MR. ODOM: Mr. Boykin was living with his grandfather at the time. He could have been a protective payee, I don't know. Were you living with Mr. Boykin on Burlington Avenue?

MS. LASSITER: No, I was staying with my mother.

MR. ODOM: Why was the AFDC check going to--

MS. LASSITER: Won't none going there.

MR. ODOM: The evidence indicates that it was.

MS. LASSITER: Well, it won't any. That's just something somebody made up. I don't know where that come from.

MR. ODOM: I don't know how she could know what the evidence was, Your Honor, because the findings of fact four and five indicate that she failed to appear either time at the hearings.

A It says in May of '75, it was found by the workers that the address in which Ms. Lassiter was receiving a check 511 Burlington Street, was the address of her boyfriend's parents. On talking with the boyfriend's parents, it was found that Ms. Lassiter did not live there and that her boyfriend picked up her mail for her and took it somewhere else. The boyfriend's parents did not know where Ms.

Lassiter was and did not know of any way to contact her.

MR. ODOM: We at least have a basis for that.

THE COURT: All right. Do you want to ask her any questions?

MS. LASSITER: About what? About what she--

THE COURT: About this child.

MS. LASSITER: Oh, yes.

THE COURT: All right. Go ahead.

CROSS EXAMINATION by MS. LASSITER:

Q The only thing I know is that when you say--

THE COURT: I don't want you to testify.

MS. LASSITER: Okay.

THE COURT: I want to know whether you want to cross-examine her or ask any questions.

MS. LASSITER: Yes, I want to. Well, you know, the only thing I know about is my part that I know about it. I know--

THE COURT: I am not talking about what you know. I want to know if you want to ask her any questions or not.

MS. LASSITER: About that?

THE COURT: Yes. Do you understand the nature of this proceeding?

MS. LASSITER: Yes.

THE COURT: And that is to terminate any rights you have to the child and place it for adoption, if necessary.

MS. LASSITER: Yes, I know.

THE COURT: Are there any questions you want to ask her about what she has testified to?

MS. LASSITER: Yes.

THE COURT: All right. Go ahead.

Q I want to know why you think that you are going to turn my child over to a foster home? He knows my mother and he knows all of us. He knows her and he knows all of us.

THE COURT: Who is he?

Q My son, William.

A Ms. Lassiter, your son has been in foster care since May of 1975 and since that time--

Q Yeah, yeah and I didn't know anything about it either.

THE COURT: Just let her answer the question. You ask her the question and let her answer it. She says the child has been in foster care since May of '75. Have you seen the child since then except on the street?

Q Yes, I seen him. Yes, I did see him.

A She saw him in December of '75, on a prearranged

visit with William Boykin. That is the only indication of a visit. And there has been no contact from you regarding William. There has been no contact from anybody else in the family regarding William and to my knowledge, and I see William very often, he has not seen you or your grandmother except that one time when you met him on the street and that time with you in December and he is almost four years now, four years old. He has been in foster care for three of those four years.

Q Well, he knows my mother and he knows me and she had him every since he was a baby.

MR. ODOM: She is testifying, Your Honor.

Q He was a big child anyway because he talked to me anyway.

THE COURT: Don't tell us--we're going to let you swear under oath about these things. All I want you to do is to ask her questions concerning your rights and your child.

Q I think--Well, my rights, I think it's not right--

THE COURT: Don't tell us what you think. Ask her questions if you have any and if you don't, tell her to stand down.

MS. LASSITER: About my child?

THE COURT: Right.

Q Well, what I want to ask about, what I want to know is why you want to take the child and place it in adoption care?

A Because I feel that William needs to have a permanent home, some place where he can grow up and stay and because his family, you nor his grandmother nor anybody else in the family has for over three and a half years shown any interest in him or asked about him and a four year old does not remember a family who does not stay in contact with him or see him. William is four years old and he has got his whole life ahead of him and he needs to be in a home.

Q Well, he's been--I've been--what I'm saying, why you think--I don't think you know what I said. I don't think because he's been--what I'm saying, that child's been with us, he was big while he was took, he was older. He wasn't that very young when they took him. He was kind of big.

A He was eight months old.

Q Yes, he was big, he wasn't that young. And he knows us and he knows my mother. And I feel why you should adopt him, he have a family, we are his family. Why you want to place him in adoption among strange people that not his family and they not got no relationship to him and his

family is over here, my mother and I.

MR. ODOM: I think she has already answered that question. I think it's obvious, you know, I think the answer to that question is very obvious.

THE COURT: What she's driving at is it's apparently going to be a long time before you will be able to associate with this child. The child is in foster care and they want to put the child in a permanent home where he can grow up and live and reside with people that he knows and who will take care of him and treat him as a family member.

MS. LASSITER: We have treated him as a family.

THE COURT: Well, why did she file the complaint?

MS. LASSITER: Well, that is lies.

THE COURT: Huh?

MS. LASSITER: That is lies because when I went to the hospital, when I carried him to the clinic--

THE COURT: Do you want to ask her anything else?

MS. LASSITER: Yes, I want to ask her about this. About you said about the clinic part. You know when you asked--you said about the clinic part.

A Yes.

Q Well, I took that baby to the clinic every day and I

got papers where I took--

THE COURT: Well, wait a minute. We will let you testify under oath about that.

Q And I want to say what they told me at the hospital--

THE COURT: Will you please keep quiet for one minute. We don't want you to testify except under oath. Is there anything else you want to ask her about the child? Now, I don't want you to tell us anything, I just want you to ask questions. Anything else you want to ask her? See, at this time you are not entitled to testify, you have to be sworn. So you can ask her questions but you can't tell us about it until after you're sworn.

Q All right. Oh, yes, when you were saying about--that we didn't get in contact with--about you said we didn't get in contact with you about my son, well I didn't know who the social service was that's why I didn't contact him because they had changed social services and I didn't know who the social service was.

THE COURT: You're telling us about it again. Just ask her any questions you want to. I want to give you a fair try. Anything else you want to ask her?

MS. LASSITER: No, I don't have anything else.

THE COURT: All right, ma'am, you can stand down.

ABBY GAIL LASSITER, being first duly sworn, testified as follows on EXAMINATION by THE COURT:

Q All right. Tell us about your relationship with your son, William L. Lassiter. I understand he was born September 26, 1974?

A Yes.

Q Where was he born, Duke Hospital?

A Yes.

Q All right. Now tell us about your relationship with him and his development and so forth from that time until you were imprisoned.

A When he was born, when I had him and everything?

Q Yes, ma'am.

A Okay. Well, he was born at Duke Hospital on September 26, 1974.

Q Speak up louder, please.

A Okay. He was born September 26, 1974, at Duke Hospital. I brought him home, see, I was staying with my mother. I brought him home and I carried--I'm going to tell you what I did. I carried forth and back to the clinic for his checkups and everything. And I took good care of him 'cause I've always been a good mother. I'm a good mother to my children. And I took care of them and

everything and did what a mother suppose to do for a child. And I love my child. And took him back and forth to the clinic and I had appointments and took him back and forth to Duke Hospital for clinic checkups and everything. So the doctors was in there, so I asked him, the doctor was in there, I don't know, they didn't never say what was wrong with him or nothing like that, you know. They told me--I asked what was wrong with my child. I wanted to know what was wrong with my child. They didn't tell me anything--nothing was wrong with him, they wouldn't tell me anything. They didn't tell me anything. And I wanted to know, you know, what was wrong with William. And I kept taking him and getting his checkup and everything. And I asked the lady, I said, what's wrong with William and they didn't never say anything, tell me anything, what was wrong with him or anything. And the day--

Q So that we will have a time frame here, when were you--

A Sir?

Q As I understand it, before you were tried on the charge of second degree murder, you were out on bond, is that right?

A Yes.

Q And when were you tried and imprisoned?

A You say when was I tried?

Q When were you imprisoned?

A Oh, I came in prison July.

Q Of what year?

A Twenty-third.

Q Of what year?

A Naw, it was 1976.

Q And the child was born in '74?

A He was born in '74.

Q All right. Now there was a hearing before me on the 16th day of June, 1975. The record shows that a petition was filed by Social Services alleging that he was neglected on 9-26-74 and that at that time the child was being held at Duke Hospital because you had not obtained any medical care for the child.

A Yes, I did. I carried him back and forth to the clinic. I got papers. I carried that baby to the clinic.

Q It also says that service of summons with a copy of petition were served on you on the 14th day of May, '75, with notice that it would be heard on the 19th day of May. Why didn't you show up then?

A Say on what? 19th of what?

Q May of 1975. You were told to be here and you

refused to come.

A Here? For the trial?

Q Right.

A Oh, I told you the reason why I got that paper. I got the first paper, what I was telling you, I got it at the prison and I told someone about it that I had to come. That was the first notice that I got, but didn't nobody get in touch with anyone. I told the matron--

Q I'm not talking about that.

A Oh, I thought you were talking about that.

Q I'm talking about--When were you tried and convicted?

A July.

MR. ODOM: I think as a point of clarification, Your Honor, she was in jail at the time--

A I was in jail at the time.

MR. ODOM: --the petition was filed.

THE COURT: Then she got out on bond.

MR. ODOM: That jail occurrence had nothing to do with what she was subsequently tried for.

THE COURT: That was for larceny.

MR. ODOM: That was for something else. At the time the neglect proceeding was filed she was in jail and she was served in jail with the custody order. But when

the matter was continued according to your order she got out of jail and then called and said she wasn't coming to Court.

THE COURT: That's what I'm talking about. On the matter, she was served on the 14th day of May that the matter would be heard on the 19th day of May and she failed to appear and the Court, that was me, on my own motion ordered the Sheriff to go and arrest Abby Gail Lassiter and bring her to court. The court being informed by the Sheriff that she could not be found. I ordered the matter then be calendared the 16th day of June, 1975 at 2:30 p.m. and that custody be left with the Department. A copy of the continuous order borne of this date was mailed on June 9th. That Dr. Jones, and public health were duly informed of the continuance. The matter went on to be called on the 16th day of June and the respondent again failed to appear. You got a letter to appear on the 16th day of June, '75, didn't you?

A From the hospital?

Q No, from down here at the court, to come here for court.

A Oh, no. I got one paper. I ain't got but two. I got

two copies, the last copy that he got on that desk, that's the second paper I got. The first one I got. I'm talking about the first one I got. That was the first one 'cause I don't have but two and they's in my Bible.

Q Your mother is Mrs. Lucille Lassiter, isn't she?

A Yes, sir.

Q Did you know that your mother filed a complaint on the 8th day of May, 1975, alleging that you had often left the children with her for days without providing money and food while you were gone?

A No, 'cause she said she didn't file no complaint.

Q That was some ghost who came up here and filed it I suppose.

A I don't know anything about that, 'cause I had to go off that day. I had done went off that day.

Q Did you ever get any support for the children from social services--

A Yes.

Q --during 1975?

A Uh huh.

Q Where was that mailed to?

A To my mother at her house.

Q At her house?

A Yes. I stayed with my mother. I always have stayed with my mother.

Q Well, did Boykin bring the check over to you?

A No, he didn't. I don't know anything about that. No, he didn't.

Q All right. On the 16th day of June, 1975, when the doctor and nurse came, the record shows that you failed to appear and the Court was informed that "she had within the past hour informed Sam Crawford of the Durham County Department of Social Services that the Court did not have the right to take her child away and that she would not appear in Court." Did you make that call?

A No, I didn't. I didn't make no call like that.

Q Well, how was anybody else going to make that call?

A Because when I--he called me. He picked up and called me.

Q Sam Crawford?

A Yes, and I talked with him and he was telling me about it and I just was telling him that I don't know what happened and I don't know anything about that. I don't know what happened, the only thing, I was shocked when I came home and my baby was gone.

Q All right. But you did talk to him on the 16th day of

June, '75?

A Yes.

Q And then thereafter you called him back, didn't you?

A Did I call him back? No, sir, no, I didn't.

Q Well, he testified that you then thereafter called the Durham County Department of Social Services--

A Unh unh.

Q --and informed Sam Crawford that she might appear if she can get there." Did you make that statement to him?

A No. He asked me, he asked me could I get up there because I didn't know what was happening. And I told him, I said, what is it about, I said, I ain't going--I just said, I'm going to court about my own child? I said what is it about, I'm going to court about my own child and I was just shocked and I just didn't know what was going on. I didn't know what had happened. And by the time then he told me that they were having--having--having the--at that time I didn't have no way to get there anyway and my children were there, I was there with my children and I couldn't leave my children there.

Q I sent the Sheriff around there to get you and you weren't there.

A No, I wasn't there because I had went off, you know, I had went off, you know.

Q No, I don't know anything about it. What do you mean you just "went off"?

A No, I just went up there to the store.

Q And then you called Sam Crawford, didn't you?

A Did I call--

Q Of course, you knew that there was a hearing going on that day concerning the custody of your child, didn't you?

A Did I know it?

Q Yes.

A No, I didn't.

Q Well, you said you talked to Sam Crawford that day.

A Oh yeah, what I mean, he called me, he talked to me on the phone.

Q Then you called him back, didn't you?

A No, I didn't. I didn't never call him back. No, I didn't.

Q But you knew that your child's custody was being determined at that time.

A No, I didn't. No, I didn't, unh unh. I didn't know what was--

Q Well what did he tell you when he called you?

A I didn't know what was going on. He called me and told me--he called and told me. I didn't know what had

happened. Only thing I said, like I said before, he talked to me on the phone and I just told him, I said, got to go to hearing, I said I didn't know anything about it. I don't know what had happened or anything.

Q Well, he told you what had happened, didn't he?

A Not exactly, no, not exactly all what had happened.

Q What did he tell you?

A He just told me they was having--and I asked him, I said,--

Q Just tell me what he told you.

A Yeah. Well I said, well I'm hurt. I said, "you come and got my child." I said, "why you come and get my child." "You took my child." I said, "and I'm hurt" and I said, "I can't bear it and my child is gone."

Q Well, you left the child one time and when you came back all of his hair had been pulled out, hadn't it?

A Naw, unh unh, because that wasn't--that--that--I don't know what had happened where that hair come from pulled out. I don't know where that came about 'bout his hair pulled out because he was shedding, you know, he shed his hair.

Q He shed his hair?

A Yes, he shed his hair, 'cause he was shedding hair.

Q Well, did you tell the doctors out at Duke that in

January '75 there was a bald area on top of the child's head which you said, "a strange man had come into the house while she was gone and took the child and when she returned two hours later his hair had been pulled out." Did you tell them that?

A Strange man? No, I didn't tell them that. I told them something--this was a friend of ours, you know. He come by and played with my baby. And you know, we know him. Us, the family know him.

Q And while you were gone his hair had been pulled out.

A No, I didn't tell them nothing like that. I told them that it was a friend of ours, you know, he come by the house, you know, and he picks up my baby, you know, he's a friend and he's close with our family and everything.

Q Well did you tell them--Well, the child's hair had been pulled out in January of '75.

A And, I told them this friend, you know, he wanted--he wanted--he wanted--he was playing, he wanted to keep him, you know, you know, over there to his house one evening. He wanted to take him over there and keep him, you know, he was going to bring him back--bring him back, he wanted to take him over there to show to his family my baby and everything.

Q Well, let's get off that. What I'm talking about is when you went to see the doctor in '75, January, there was a bald area on top of the child's head, wasn't there?

A I don't know, I didn't see no bald area.

Q Well, you told them that some man had come and pulled his hair out while you were gone, didn't you?

A No, I didn't tell them that, now, that no strange man come in no house.

Q Well, did this friend of yours pull his hair out?

A Naw, he was a friend, he was a friend of the family and we all know him and his family and all of us. We know each other. All us family. He just know all us.

Q Did you tell the doctor that?

A No, I didn't tell him that.

THE COURT: All right, Mr. Odom, see what you can do.

CROSS EXAMINATION BY MR. ODOM:

Q When is the last time you've seen this child?

A That was when I seen him down--let's see. One day I was downtown. I seen him twice since then 'cause one day I seen him downtown before I was having a hearing at my trial. I seen my baby downtown; me and my mother and all of us was together and my boyfriend; all us was together.

And I stopped. And the woman that keeps my child, I know her. She had him and we stopped and I played with him and I talked with him and played with him and everything. Me and my mother and I and my boyfriend. All of us stopped along the road--

Q Before your trial started, when was the last time you saw him?

A Before my trial?

Q Yes.

A Let me see. Then, I seen him then--well, the last time I seen him then that was at a grocery store I seen him then, that time.

Q You've only seen him once at the Social Services building and that's the time that you and William Boykin went up there, wasn't it?

A Let me see. Yes, I seen him at the social services.

Q One time.

A I went to social services up there. And one day--I've been to social services more than one time up there 'cause one day I went up there I had the rest of my children with me. All of my children and all of us, just me and my children.

Q But you didn't see your baby on that day, did you?

A What, I went up there? That day? One day I did go up there and all my children were together and I did see my baby because Mr. Sam had--

Q How many times all together, count up for us, how many times all together you have seen that child since May of 1975.

A I've seen him more than twice.

Q Well, count them up for us.

A I would say about--because I seen him then, me and my children and all of us in--

Q Five, maybe six times?

A Yes. More than that because I have seen him more than that. That's right, more than that.

Q Including when you'd see him on the street.

A Yeah, uh huh.

Q But you haven't made any effort to really visit with him by calling the Department and setting it up, have you?

A Did I make an effort?

Q To call the Department and set up a visit or ask if you could see him?

A Yes, I have, yes, I have. Because she wasn't on the case working then, she wasn't on the case. It was another social worker on the case. She was saying the social worker

was going to bring the child by the house and she was going to bring my baby home. She told me, she was a black lady, she said she was going to bring my baby home.

Q Did you hear this lady testify that the record did not reflect any of that?

A I don't know anything about that, I don't know where she come from, she wasn't the social worker at that time.

Q How long are you going to be in prison?

A I don't know. I'm waiting for to hear from my lawyer soon.

Q What were you convicted of?

A Well, I'm here, I'm here got accused, got a charge, I'm accused of murder, second degree murder and I'm accused of it. And I was framed, or something.

Q Okay. Well, I'm not asking if you are guilty of that.

THE COURT: How much time did the Judge give you?

A Well, twenty-five to forty years.

Q If you could decide right now what you plan to do with that child what would you plan to do for that child right now? What would you have happen to it?

A If I do what now?

Q What would you want to happen to your child if you could plan for him right now, what would happen to him? I

mean, you can't take him over there and keep him with you.
A Well, I'd be a mother for him like I always done, be a mother for him.
THE COURT: Just answer his question. He said what would you like to have done with your child since you can't take him with you?
Q Do you want him to stay where he is?
A No.
Q You want him to go live with your mother?
A Yes, I do. Because that's his family. She is his grandmother.
Q And you think he knows her?
A Yes, he does. He knows all of us, my children.
Q How does he know you? How do you even know that he knows you if you haven't seen him in a year?
A Well, he knows us.
Q Just because you are his family?
A He knows us. Children know they family. I don't care which way it is, children know they family. They know they people, they know they family and that child knows us anywhere. He got brothers and sisters. I got four more other children. Three girls and a boy and they know they little brother when they see him.

Q He hasn't seen any of them in a couple of years.
A Yes, he have, he have seen them since then.
Q How do you know?
A Because I have been with them. They seen him because I had my children with me and when we meet and run into him and see him, they see him too. All of us be standing there. Because the last time when I ran into the store when that lady had him, that lady had him, she had him. And my other children were standing right there and she said there go our other brother and that child got out of that cart, he didn't want to go with that lady. 'Cause she's not his mother, I'm his mother. I don't care which way it is, I'm his mother and that's his grandmother.
Q And he has been in foster care for over three years of his four-year life, isn't that right? He was eight months old when he went into foster care, isn't that right?
A Sir, how would you feel if somebody came and got your child and took it away like that?
Q Just answer my question. He's been in foster care since he was eight months old?
A I don't know how long he has been in there.
MR. ODOM: We're getting unresponsive answers now and it's just antagonizing the situation. I don't have

any other questions for her. I think her testimony speaks for itself. I know what she wants the child to feel and know, but I think it is unreasonable to suspect that he would know her after four years or even three. I don't have any other questions for her, Your Honor.

A You--

THE COURT: Just one minute.

A Okay.

MR. ODOM: If Your Honor please, I would like the record to reflect and ask the Court to take notice of the order filed in this matter on June 16. And would like the record to reflect and the Court to take notice that there is nothing to indicate that any effort was made to overturn that order or take an appeal from it or to dissent from any of the findings of fact made by the Court. I have not checked the Juvenile records but if it is in there I would like the Court to take judicial notice of the fact that the grandmother or at least your court order reflects that the grandmother had filed a petition in essence alleging that the mother, Ms. Abby Gail Lassiter, was neglecting her children prior to the Department of Social Services becoming involved.

THE COURT: Well, we found that the grandmother,

Ms. Lucille Lassiter, mother of Abby Gail Lassiter, filed a complaint on the 8th day of May, 1975, alleging that the daughter often left the children, Candina, Felicia, and William L., for days with her without providing money or food while she was gone. That the AFDC check for the children was mailed to the grandfather's house of Abby Gail Lassiter's boyfriend. And we made the following, upon testimony of the witnesses makes the following findings of fact in the judgment. Upon the testimony of Sam Crawford of the Durham County Department of Social Services that she had called in and said that the Court did not have the right to take her child and she would not appear in Court. A few minutes later she called again and informed Sam Crawford that she might appear if she could get there. I don't think we are getting anywhere, we have the same thing here. All right, you can step down. You want your mother to testify?

A Yes, Uh huh.

THE COURT: All right.

LUCILLE LASSITER, being first duly sworn testified as follows on EXAMINATION by THE COURT:

Q For the record, state your full name and address.

A Where I'm living now?

Q Your full name and address.

A My name is Lucille Lassiter, and it's 219 South Alston Avenue, Alpine Apartments II, Apartment No. C-7. The time when, Abby Gail, that's my daughter, the time when they took her child, I will tell you what happened. She didn't know anything about it because she was not home that day when this Mr. Sam Crawford came there looking for her. 'Cause she had a house of her own but she stayed at my house most all the time with her children. And she was at my house and he came there and he said he had been looking for her and he couldn't find her, where she was staying at. And I had her baby, her little baby in my lap.

Q That's William?

A Yeah, William, we call him Little Billy. She had been taking him, that child had been going to the hospital, I don't know how those nurses could sit up there and say that. That youngun tended to her children, God knows that. She had been taking that child out to the hospital, back and forth. But it was something when the child was born, wasn't nothing wrong with the child but his 'pendix. As far as the hair, the baby was already bald up there. He had pretty good hair back there but it was shedding. And he sit there and talked to me for a while and I told him--he said

where is Abby Gail. I said, I don't know. And I said--and he said--and I said-- and I said that the baby was sick and he asked me how was the baby getting along and I said I don't know, she's taking him back and forth to the doctor, but I said it don't seem like the doctor is doing him any good. So he took the baby and looked at the baby and he said, well, do you want me to take this baby to the hospital today, this baby is ill, he said you said the doctor--I said well, she takes the baby to the doctor, because she have the papers--I have the papers there in my pocketbook now, where she'd taken that baby to the doctor. And her pocketbook hanging up in the closet, she took it and he said well--and I said, do you want me to go with you to the doctor and he said, no, you stay here with the rest of the children, he said, I'm going to the hospital. And so, when he went and he came back and he didn't come back that day and he come back he says your--he come back and he says the baby was sick and they said they were going to keep the baby for two weeks. And my daughter over there, where she was, she was out there--out there had took the children out there to a store out there and this man misplaced and claimed that he thought that she had picked up something but she didn't and she had paid for it.

Q In other words she was--

A And she had done paid for it and they put her in jail. Yeah, and the man thought that she had picked up something but she didn't and they put her in jail but she had a lawyer and she came home.

Q Let's just try to stick--

A And he came back--he came back and he had--and he came back and so I was sitting there and he came up and I said, I told him--I told her, I said, this man, this case-worker come, Abby Gail, and got your child and put it in the hospital and Abby Gail said, what's he doing coming here and getting my baby. She called him baby and I said well I asked him to go with him but he told me that I didn't have to go with him. And she--when they had her up there in jail a paper came there; he sent a paper and had on the paper that he asked me and he didn't ask me no questions. I did not sit down and talk to that man. And he asked me would I come to Court. He had done went and wrote up a paper that this child had been neglected and it's a whole lot of mess. Ane he had a whole lot of mess on the paper that he said I said and God knows that I hadn't said those things. I ain't told that man not anything. Because he just asked me a few questions. He didn't ask me no questions

about this child or nothing. He just said that he had been looking for my daughter. Okay. And so when the time come for the--and I say I'm not--and this is what I said, and I said I'm not going up there to no trial and I told him, I said, I didn't tell you that. And I ain't never seen him no more and I said you know that I did not tell you that. And I said I am not coming to no court for no neglect of no children because that doesn't run through my family.

Q In other words you had notice of the hearing and you said you weren't coming to court?

A I said that I was not going to come to no court--

Q I said in other words you had notice of the hearing but you decided that you were not coming.

A I didn't have no notice of no hearing. He come and wrote me and told me he was going to have a hearing. That's what he told me.

Q And he told you--

A And I--and he--

Q Wait a minute. You told him you were not coming, didn't you?

A I mean that's why we were talking.

Q I said you told him you were not coming.

A Yes, I told him.

Q All right.

A And I said, why you go and put my name in court for. Up there in court and I said I haven't told you anything. That's what I told this Sam Crawford. I said you wouldn't had to told lies--up and told lies on me for.

Q Now when this--

A He took the girl's--

Q Wait a minute. Wait a minute. Now at the hearing that you did not come to, the Court found as a fact that Lucille Lassiter, mother of Abby Gail Lassiter, filed a complaint on the 8th day of May, 1975, alleging that her daughter often left the children, Candina, Felicia and William L.--

A I did not tell him that.

Q --with her for days and did not provide any food or money. Did you file that complaint?

A No, sir, I did not tell him that. I told him--we had talked about--

Q I'm not talking about whether you talked to him about it.

A No, I didn't file it in. No, sir, I didn't tell him that. No, sir, I didn't--

Q Wait a minute. Did you file a complaint?

A How do you mean file it?

Q I mean, did you turn in a written statement saying that?

A Oh, naw, naw, no, sir, no, sir, I did not.

Q Did you go up to Social Services or call in a complaint--

A No, sir, I haven't been to no--

Q --or complained about this??

A No, I didn't. He came to my house. He came there.

Q Did you sign anything while he was there?

A I didn't sign no papers. He came there. Because he was talking about the baby, that's what he was talking about. And talking about he was looking for my daughter.

Q What did you say about her?

A Well, he said he had been looking for my daughter and he couldn't get in touch with her and he wanted to know where she was. And I said she stays over here most all the time. I said, but she got a house but she don't stay in it over there on Carrington--not Carrington Street but up here on--I'll think of the street after a while. But I said she says at my house most all the time, and I said, but she is not here. And then we got to talking about the baby and everything. Because the baby was little and all her

children be little and he asked me was the baby underweight and I told him naw, I said that every one of her children be little and she got five and every one of them be little children when they be born and they turns out to be big. I said all of them be little. And that's the most we talked about and I was telling him about she had to take the baby back and forth to the doctor--

Q Well, how many of her children were staying with you when he came down there?

A All of the children? Well, they all--let me see, she had--

Q Candina?

A Yes, all of them except one because--

Q Where were the other children?

A Where were the other children?

Q There were five, weren't there?

A Naw, it's five now. He was the baby. He was the baby then.

Q Well, he was alive, wasn't he?

A He was alive?

Q And so she had five children, didn't she?

A Naw, she had five after then.

MR. ODOM: She's had two after the baby was born.

THE COURT: After William?

A No, one after William was born. She had one after William was born. And then she moved over on Calvin Street and she was on Calvin Street and this trouble--we were over there and this trouble and then she was going back and forth to the case to the people about her child because she didn't even know where they had put her child. So then they put this little black lady on the case. So she was coming in and she said she would take her, you know, and see about the child. When we would see the child he would knows all us because he was a big child. He knows us, he come right straight to us and all the stuff like that. But anyway, when she got--when this trouble happened, you know, with me and her, with the court on this trouble what she's in now, this black lady and she was talking to her and she said, well, Abby Gail, she said, ya'll go on to court and she said, and we'll see, you know, what's going to happen to ya'll in court and I was found guilty and she would found not guilty in court and come out.

Q Let's not get into all of that.

A I didn't know who was the case worker and then this lady here she came in the picture. Then she came in the picture. And I said, I had been looking all this time

because I had been calling the lady up, you know,--

Q I want to know this. Who had been looking for who?

A I had been waiting on her to find out who was the case worker and then she said, I am the case worker, that's what she said. And then we got to talking about little Billy. She promised me faithfully--she said, now she was going to have me visit little Billy, that she was going to bring little Billy, William, to my house and play with the other little boy, you know, before she would bring him in to live with me because I definitely told her that I could take this child because I have four and I said now, the girl wants me to have the child and I would like for all of them to be together because she is--I got four children, she is the only one that have children and that's personally my family and it's all the family we have and I said I want all her children. And she said you're not--

THE COURT: I tell you what, let's just stop all this. You question her, please. Just answer his questions. We'll be here all day at this rate. I mean, we are just wasting time, we're skipping from one subject to another--

CROSS EXAMINATION BY MR. ODOM:

Q Isn't it a fact, Mrs. Lassiter, that on the date that she said you could visit with the child you showed up and

you had been drinking?

A No. I showed up where?

Q This lady went to your house and you were drinking and you wouldn't let her in the house?

A Lord have mercy. I don't even drink. I'm a Christian.

Q Let me ask you this.

A I don't even drink. Nor smoke either. My paster--

THE COURT: Just answer his questions.

Q Let me ask you this. Did you on or about the 8th day of May, 1975, call a Ms. Mangum at the Department of Social Services and say to her as follows: That your child, Abby Gail Lassiter, leaves the children with you alone at all times. She leaves them for days without providing money or food for the children while she is gone; that her AFDC check is coming to the boyfriend's grandfather house and her boyfriend gets the check. That she beats her mother, that means you, she is beating on you and the boyfriend takes the foodstamps. Did you--

A No, no. Unh unh.

Q --call the Social Services and tell them that?

A No, sir, somebody else could have called and said they was Lucille. Ain't a child I got never will hit me.

That she beat me, naw, unh unh. Not a one of them will ever hit me.

MS. LASSITER: I ain't never hit my mamma.

A Unh unh, no, I didn't do that. That was somebody else 'cause I don't know where that come from. God knows that's not me.

MS. LASSITER: It must be somebody that knew her.

Q You denied it. That's all I want. You don't need to go any further.

A That's right. That's right. That's right. If I'd done it I'd said so.

MS. LASSITER: Lord Jesus, Lord, Lord, Lord. Help them Jesus.

Q And your oldest grandchild, which one is that Candina or Felecia?

A My oldest one?

Q Yes.

A Yes.

Q And she has always stayed with you, isn't that right?

A No, no, no, Angelia.

Q She has always lived with you?

A Yes, uh huh.

Q And her mother has never taken care of her, has she?

A Her mother never did. Her mother was a child, she was fourteen when she had that child, she was a child when she had that child, she was in school.

MS. LASSITER: I was just a child.

A Yeah, she was a child.

Q So you've been raising all of her children, right?

A Be raising all of hers?

Q You've raised all of them except William.

A No, she raised her own children herself. She took care of her own children. Angelia is the onliest one and she was in school and took over and put her back in school just like other people do their children. I put her back in school.

Q Did you tell Ms. Mangum on the 8th day of May, 1975, that when your daughter was in the hospital having William that she left the children in the cold house with no heat?

A No, sir, no, sir, unh unh, no, sir.

MS. LASSITER: That's a lie.

A No, sir, no, sir. God knows, I'll raise my right hand to God and die saying that. Somebody else told that.

THE COURT: I wish you wouldn't talk like that it scares me to be in the same room with you.

A Yes, sir. I'd say somebody else told that. All that

mess--all that mess up there--

Q You deny that you made that report at all.

A I don't deny it because I didn't make it.

Q All right. Let me ask you this. How many times have you seen your grandson, William Lassiter, since he's been in foster care?

A Since he's been in foster care?

Q Yes, ma'am.

A I've saw him three times since he's been there.

Q Just three times in three years, that's once a year.

A I said since he's been in foster care.

Q Three times?

A Because in fact, a whole year went by and I didn't even know where he was. We were trying to get in touch--

Q Did you ask anybody where he was?

A Yes, I called and I didn't know where he was, we had nobody to cooperate with us until this little black lady got on the case. And then she went right along with us and cooperated with us to try to get her child back. That's the onliest anybody that seemed like cared or had any--or cooperated along with us. And this little black lady, I don't know what happened to her, she cooperated with us and went along with us in trying to get her child back.

MR. ODOM: Well, I don't have any other questions, Your Honor.

THE COURT: All right. You can stand down.

MR. ODOM: If Your Honor please, that's all as far as we know unless she has some more witnesses she wants to testify.

THE COURT: Do you have any other witnesses? Ms. Lassiter, do you have any other witnesses?

MRS. LASSITER: That knows about this?

THE COURT: I said that to her, Abby Gail Lassiter. Do you have any more witnesses?

MS. LASSITER: Nobody else don't know nothing about this but me and momma.

THE COURT: Did you ever get a check from the Department of Social Services for the support of these children?

MS. LASSITER: Yes, sir.

THE COURT: Where did it come from? Where did it go to?

MS. LASSITER: Who? My check? I got my check? To my momma's. 'Cause she said I had a household but I stayed at her house mostly, you know.

THE COURT: Did it go to your boyfriend's

grandfather's house?

MS. LASSITER: No, sir. No, sir.

THE COURT: The record shows and there is a finding of fact that it did.

MS. LASSITER: No, it didn't.

MR. ODOM: If Your Honor please, I think the evidence does show that she is talking about how the child knows them. You know children and you know a four year old child is not going to relate to and accept as a parent someone he has not seen but four or five times in the last three years. If he saw them once a week for the last three years, it is not likely that he is going to know them or relate to them as parents. I think the evidence show, at least our evidence shows that there has been a lack of contact and lack of desire other than this morning to object to any planning about the child or cooperate with making any plans. The woman certainly has some ability to communicate with people. She through her mother has been able to communicate with her lawyer about her murder conviction and ask for post-trial proceedings to see if they can get a new trial or something like that. So, it is obvious to me, or it would seem to be obvious that she could make contact with the Department of Social Services

about her child. The record reflects, the Department of Social Services' record reflects that even when she was not in prison, before she was arrested, there was a period from May 1975 until December that she did not see the child, at least to the knowledge of anyone in the Department of Social Services. She was out on the street and apparently had some way of getting around. As I indicated earlier, I would like the Court to take notice of the order and findings of fact that were made and there was no appeal taken from it or no effort to overturn it or no apparent effort on the part of the respondent to come forward to give any evidence. However, if the Court finds anything different from what it did find, Ms. Lucille Lassiter has testified that she knew about the hearing and told the social worker that she won't planning to come. And I think we are talking about a four year old child who, at best, is not going to have any relationship with his mother at anytime in the forseeable future, if in fact she is retried and convicted, or whatever. He doesn't have a relationship with her now. If she doesn't get a new trial she is serving a 25 to 40 year sentence for second degree murder and it's just not likely that any time in the near future of this child he is going to have any meaningful relationship with

his mother. And for the record, I think it is important to note that he has not had any meaningful relationship with his grandmother. And even if he went to live with her and I'm not sure if it would be in his best interest at this point. There has been testimony to the effect that Mrs. Lassiter herself, Mrs. Lucille Lassiter, said that she didn't feel that she was quite capable of taking care of the little fellow at this time. She denied that this morning and the Court can take that for what it's worth. But I do think that we do need to make some plans for this child and that he needs to be free so an adopted family--where he can be put in a family where he has a family, a mother and daddy with him day in and day out. Somebody to assume his care and supervision and let him make some attachments because nobody has made any for him in his first four years of his life.

I think the evidence indicates that there is lack of interest, day-in day-out interest on the part of the mother towards this child and even though it is difficult to have somebody come in and terminate rights of a child and there are all sorts of reasons to object to it, I think this is an appropriate case for it.

THE COURT: Is there anything you want to say

about it? Not you, you are not in the case. I am talking about you.

MS. LASSITER: Yes. I don't think it's right.

THE COURT: Are you saying that you would rather let the child just float around?

MS. LASSITER: No, I want him to be with my mother.

THE COURT: Well, it has already been found as a fact in this matter that she complained that you would leave the children for days without food or support of any kind.

MS. LASSITER: That's not true.

THE COURT: I have already found it as a fact at a hearing when you didn't show up and you were told to be here. And I think that's a certainty due to the fact that you had control and care of the child at that time. Unless you think there is some defect in the record, I am prepared to sign an order terminating her rights.

MR. ODOM: I would like to, of course, there is no testimony to that effect, but there has been some indication that Ms. Lucille Lassiter is disturbed about this. She has been disturbed, apparently, I think that Ms. Smith can evidence some indication that she showed the

first time and we would like for the Court to instruct her that there are appropriate means for her to object to what is happening this morning and to take it out directly against the social worker is an inappropriate way. If you understand what I mean.

THE COURT: All right. You have a right to appeal to the Court of Appeals.

MS. LASSITER: Yes, I do. I want to appeal it.

THE COURT: Well, I said you have a right to appeal it and I would suggest that if you can hire a lawyer, hire one and if you can't go to the legal aid clinic or get your mother to. It's not the legal aid clinic, it's North Central Legal Assistance Program, down at five points on your left as you go towards five points from here.

MR. ODOM: What I'm asking for is for the Court to instruct Ms. Lucille Lassiter not to intimidate the social workers.

THE COURT: No, don't fool with the social workers. This is a court action taking place, not any action on her part.

MRS. LASSITER: Well why do you say--You said to go to the Lawyer's Aid?

THE COURT: I said if you can hire a lawyer, hire

one. If you can't go to North Central Legal Aid Society down at five points and tell them who you are and what the situation is about and if you want to ask their advice you can.

(THE HEARING CONCLUDED.)

CERTIFICATE

I, Lizzie S. Cofer, Court Reporter, do hereby certify that I am official Court Reporter for the District Court of Durham County. That the foregoing 63 pages is a true and accurate transcription of testimony recorded by mechanical device and reduced to typewriting by me, in the case of In the Matter of William L. Lassiter, heard on the 31st day of August, 1978 before the Honorable S. F. Gantt, Judge presiding over the Juvenile Division of the District Court of Durham County. That the aforesaid pages constitute a true and accurate transcription of the tapes to the best of my ability and understanding.

This the 14th day of April, 1980.

Lizzie S. Cofer
Court Reporter